**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**ORDINARY ORIGINAL CIVIL JURISDICTION**

**WRIT PETITON NO.1515 OF 1990**

M/s.Livingstone ..Petitioner.

V/s.

Union of India & Ors. ..Respondents.

Mr.Dinesh Pednekar with Ashis Parikar i/b. M/s.Khaitan & Jayakar for petitioner.

Mrs.N.V. Masurkar with H.V.Mehta for respondents.

**CORAM : S.RADHAKRISHNAN AND J.P.DEVADHAR, JJ.**

**DATED : 27TH JANUARY, 2005.**

**P.C. :-**

1. Learned counsel for the petitioner in this petition has made a statement that the bank guarantee has already been renewed and handed over to the concerned authorities. Learned counsel for the Revenue after verifying the said fact makes a statement that the renewed bank guarantee has been received by the Revenue. Statements made by both the parties are taken on record.

2. The petitioner in this petition is the business of import of steel pots for quite some time and have been operating under valid licence. The dispute is essentially

generated on account of the respondents not allowing the clearance of various consignments of goods which have been imported under that licence. A detailed discussion of the factual aspects is not necessary for the dispose of this petition.

3. This Court which granting rule in this petition was pleased to grant interim relief in terms of prayer (c) and allow clearance of the concerned consignment on petitioner furnishing a bank guarantee for 25% of differential duty in favour of the Collector of Customs and a bond for the balance.

4. In pursuance of the aforesaid interim order, the consignment covered by the relevant bills of entry and invoices pertaining to the petitioner were allowed to be cleared. In other words, the interim order operated in favour of the petitioner and the goods were allowed to be cleared on compliance of the above conditions.

5. Now, what remains in the final adjudication of duty liability i.e. finalisation of the provisional assessment on the basis of which the goods were allowed to be cleared.

6. Learned counsel appearing for the petitioner

submits that petitioner shall have no objection if the respondents desire to finally adjudicate upon the duty liability so as to finalise the provisional assessment made by them. The petitioner through their counsel undertook to co-operate with the adjudicating authority in the adjudication proceedings.

7. Learned counsel appearing for the Revenue adjudicating authority also expressed desire to finally adjudicate upon the duty liability of the petitioner so as to finalise the assessment of duty within a period of six months from today, after following the principles of natural justice.

8. Having heard the rival parties and looking to the consensus between the parties, we also feel that the duty liability can be more conveniently adjudicated upon in the departmental adjudication proceeding in which disputed questions of fact can also be gone into which this Court may not be able to resolve in exercise of writ jurisdiction under Article 226 of the Constitution of India.

9. In the above premises, Revenue is directed to proceed with then adjudication proceedings as expeditiously as possible and to finally conclude the

assessment proceedings within six months from today.

10. The petitioner shall keep the bank guarantee renewed and alive till the completion of the adjudication proceedings and eight weeks thereafter. If the adjudication proceedings are not completed within a period of 6 months from today, bank guarantee shall stand discharged. In that event, petitioner would be relieved of their obligation to keep the bank guarantee alive.

11. If the adjudication proceedings are not completed within six months from today and delay results in discharge of bank guarantee, then, in that event, the Chief Commissioner shall hold enquiry to fix the responsibility for the delay and consequent loss suffered by the Revenue and should submit report to this Court within four weeks thereafter.

12. With these directions, the petition is disposed of in the terms of this order. Accordingly, rule is made absolute with no order as to costs.

**(S.RADHAKRISHNAN, J.)**

**(J.P. DEVADHAR, J.)**